IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2301 OF 2005

Balasaheb Shamrao Kangade. .. Petitioner.

vs.

The State of Maharashtra

& Ors. .. Respondents.

Shri S.A. Masal for Petitioner.

Smt. S.D. Shinde, APP., for State.

CORAM : J.N. PATEL, AND

SMT. ROSHAN DALVI, JJ.

DATE : 24th August, 2006.

P.C.

. Heard.

2. The petitioner has approached this Court seeking a direction against respondent no. 1 to recover the vehicle in the custody of the respondent no. 2 and hand it over to the petitioner.

3. The subject matter of the petition relates to a transaction wherein the petitioner got a vehicle finance from respondent no. 2 i.e. Motor Truck bearing No. MH-11/M-3764. It is the grievance of the petitioner that

in spite of approaching the respondent no. 2, the respondent no. 2 has not assisted the petitioner in the matter. Further, it is contended that the respondent no. 2 has no authority under the law to have recovered possession of the vehicle without following due process of law.

4. In our view, it will be appropriate for the petitioner to approach the Civil Court in the matter as indisputably the seizure of the vehicle arises out of a loan transaction. The Civil court is quite competent to order restitution if it is satisfied that the respondent no. 2 has wrongfully repossessed the vehicle in question which is admittedly financed by respondent no. 2. Therefore, we are not inclined to interfere in the matter and dismiss the petition. As the petition is dismissed all interim orders stand vacated.

(J.N. Patel, J.)

(Smt. Roshan Dalvi, J.)